

**In the United States District Court
For the Southern District Of Georgia
Division**

ERIC A. KELLY,

Petitioner,

v.

WARDEN FLOURNOY,

Respondent.

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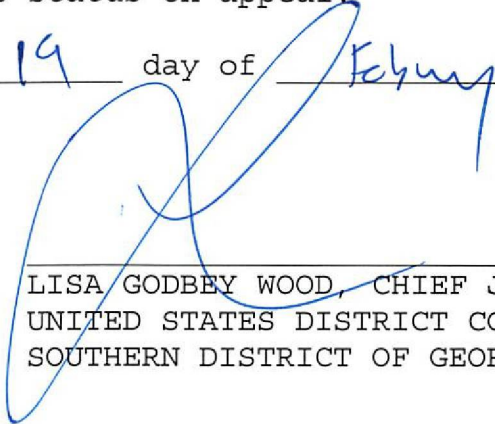
CIVIL ACTION NO.: 2:15-cv-58

ORDER

After an independent and *de novo* review of the entire record, the Court concurs with the Magistrate Judge's January 8, 2016, Report and Recommendation, dkt. no. 10, to which Petitioner Eric Kelly filed Objections, dkt. no. 11. The Court recognizes at least one Court of Appeals applies the decision in Johnson v. United States, ___ U.S. ___, 135 S. Ct. 2551 (June 26, 2015), to cases on collateral review. See Price v. United States, 795 F.3d 731 (7th Cir. 2015). However, as the Magistrate Judge noted, the Eleventh Circuit Court of Appeals, whose decisions are binding on this Court, has explicitly declined to apply Johnson to cases on collateral review. Thus, the Johnson decision provides Kelly no relief pursuant to 28 U.S.C. § 2241.

Accordingly, the Magistrate Judge's Report and Recommendation is hereby **ADOPTED** as the opinion of the Court, and Kelly's Objections are **OVERRULED**. The Court **GRANTS** Respondent's Motion to Dismiss, **DISMISSES** Kelly's 28 U.S.C. § 2241 Petition, and **DIRECTS** the Clerk of Court to enter the appropriate judgment of dismissal and **CLOSE** this case. Kelly is **DENIED** *in forma pauperis* status on appeal.

SO ORDERED, this 19 day of February, 2016.



LISA GODBEY WOOD, CHIEF JUDGE
UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF GEORGIA